

Serial No. 10/648,805

Attorney Docket No. 14-018-RCE

RECEIVED
CENTRAL FAX CENTER
MAY 15 2007

REMARKS

Claims 1-35 are pending. The applicants respectfully request reconsideration and allowance of this application in view of the above amendments and the following remarks.

The applicants respectfully request withdrawal of the finality of the rejection. The office action includes a new ground of rejection that was not necessitated by the applicants' amendment. According to MPEP 706.07(a), it is not proper to make an action final if the examiner introduces a new ground of rejection that is not necessitated by an applicant's amendment.

The entire final section of claim 2 was quoted in the section 112 rejection and was said to be indefinite. Also, the phrase "respective results," which is located in the final section of claim 2, was said to be indefinite. However, nothing in the final section of claim 2 was amended in the amendment of 29 November 2006 (the previous amendment). Therefore, this rejection was not necessitated by the applicants' amendment, and the rejection should not have been made final. The applicants respectfully request that the finality of the last rejection be withdrawn.

For the reasons given above, the applicants believe that the present amendment should be treated as an amendment in reply to a non-final office action under 37 CFR 1.111 and not as an amendment in reply to a final rejection under 37 CFR 1.116. Thus, the present amendment should be entered.

Claims 1, 2, 33, and 34 were objected to for informalities. The examiner suggested that the phrase "a starting auxiliary control" be changed to "the start of an auxiliary control." However, this change would be incorrect. The starting auxiliary refers to a control for causing

Serial No. 10/648,805

Attorney Docket No. 14-018-RCE

the vehicle to creep at a controlled speed. For clarification, the phrase "starting auxiliary control" has been changed to "low speed control" throughout the claims. Therefore, this objection should be withdrawn.

Claim 2 was rejected under 35 USC 112, second paragraph, as being indefinite. The applicants respectfully request that this rejection be withdrawn for the following reasons.

The office action stated that the limitations "run into one another distorting the meaning of the claimed limitations." While the applicants could not find any such limitations, the claim has been clarified and reorganized. Further, the phrase "respective results" has been removed, and some commas, which were said to be over-used, were removed. Claim 2 is considered to be fully definite, and this rejection should be withdrawn.

Claims 1-35 were rejected under 35 USC 102(b) as being anticipated by Kajiwara (5234071). The applicants respectfully request that this rejection be withdrawn for the following reasons.

Claim 1 has been amended to recite that there is a relationship between the target speed and the degree of brake pedal depression such that the greater the degree of brake pedal depression is, the smaller the target speed is. This is supported at least by pages 30-32 of the specification. Specifically, note lines 8-10 of page 31 where it is described that the coefficient K2 is set to decrease in accordance with the magnitude of the brake operation amount of the driver.

The method of determining the target speed in the apparatus of Kajiwara differs from that of the claims. In the apparatus of Kajiwara, the travel control apparatus stores the vehicle speed

Serial No. 10/648,805

Attorney Docket No. 14-018-RCE

at which the brake pedal or the accelerator pedal is released. However, in the claimed invention, the target speed is continuously calculated based on the degree of depression of the brake pedal or the accelerator pedal.

For example, consider when the vehicle is traveling at a low speed just prior to parking. In the apparatus of Kajiwara, the target speed is not determined until the brake pedal or the accelerator pedal is released. Therefore, the driver must frequently depress and release the brake pedal or the accelerator pedal to adjust the target speed.

On the other hand, according to the present claims, the target speed is continuously calculated based a depression amount of the brake pedal or the accelerator pedal. Thus, the driver can adjust the vehicle speed to the target speed and park the vehicle easily with simple operation of the brake pedal or the accelerator pedal. As a result, the driver can concentrate on operating the steering wheel or watch the perimeter of the vehicle while the vehicle travels at the target speed.

Further, when a vehicle travels at a low speed, for example 3km/h, on a sloped road, there are differences between the Kajiwara apparatus and the claimed apparatus. In the Kajiwara apparatus, as mentioned above, the target speed is not determined until the brake pedal or the accelerator pedal is released. The driver releases the brake pedal or the accelerator pedal after he/she has determined that the vehicle speed has reached the target speed. However, there is a time lag after the driver releases the pedal and before the speed can be controlled. During this time lag, gravity affects the vehicle speed depending on the slope of the road. Therefore, the target speed that the driver requests cannot be obtained. The driver has to adjust repeatedly to decrease the speed difference between the vehicle speed and the target speed. On the other hand,

Serial No. 10/648,805

Attorney Docket No. 14-018-RCE

in the claimed apparatus, the target speed is continuously calculated based on the amount of depression of the brake pedal or the accelerator pedal. As a result, there is no time lag. For these reasons, claims 1, 2 and their dependent claims cannot be anticipated by the patent to Kajiwara.

In view of the foregoing, the applicants submit that this application is in condition for allowance. A timely notice to that effect is respectfully requested. If questions relating to patentability remain, the examiner is invited to contact the undersigned by telephone.

If there are any problems with the payment of fees, please charge any underpayments and credit any overpayments to Deposit Account No. 50-1147.

Respectfully submitted,



James E. Barlow
Reg. No. 32,377

Posz Law Group, PLC
12040 South Lakes Drive, Suite 101
Reston, VA 20191
Phone 703-707-9110
Fax 703-707-9112
Customer No. 23400